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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

In re FACEBOOK BIOMETRIC
 INFORMATION PRIVACY LITIGATION

) Master File No. 3:15-cv-03747-JD

) CLASS ACTION

This Document Relates To:

) THIRD JOINT REPORT REGARDING
) PROGRESS OF NOTICE

ALL ACTIONS.

Pursuant to the Court's Order Granting Preliminary Approval of Class Action Settlement at 7 (ECF No. 474) ("Preliminary Approval Order"), Plaintiffs Nimesh Patel, Adam Penzen, and Carlo Licata (collectively, "Plaintiffs") and Defendant Facebook, Inc. ("Facebook") (collectively, the "Parties"), respectfully submit this Third Joint Report Regarding Progress of Notice ("Joint Report") and state as follows:

The Settlement Administrator Provided the Court-Approved Notice

Gilardi & Co. LLC ("Gilardi"), the Court-appointed Settlement Administrator, has complied with this Court's order and provided the approved notice to the class by the September 23 notice date. Specifically, Gilardi has:

1. Designed and launched the settlement website, which went live on September 18 at www.FacebookBIPAClassaction.com with full functionality;

2. Placed a one-eighth page ad in the classified section of the September 23 publication of the *Chicago Tribune*;

3. Placed a one-quarter page ad in the main news section of the September 23 publication of the *Chicago Sun-Times*;

4. Launched a Google Display Network internet banner ad campaign that began on September 23 and will run until October 23. As of September 27, this banner ad campaign had generated 6,499,355 impressions, with 4,012 click-throughs to the settlement website;

5. Sent the Court-approved email notice to each of the 15,372,960 emails that Facebook provided. (Recall that scores of class members had multiple emails addresses associated with their Facebook account and notice was sent to each of those addresses. At least 10,295,502 emails were successfully delivered to at least one of the email addresses associated with an account. These emails were sent beginning on September 18 after the settlement website went live, and continued to be sent in batches of roughly 3 million per day to increase deliverability, concluding by the September 23 notice date;

6. Received 1,027,872 claims through the settlement website as of September 29; and

7. Received 30 requests for exclusion and zero objections.

Facebook Provided the Court-Approved Newsfeed and Jewel Notices

Facebook has complied with this Court's order and provided the approved Newsfeed and jewel notice to the class by the September 23 notice date. Specifically, Facebook has:

8. Displayed the Newsfeed notice which had nearly seven million impressions and a click through rate of over 5%;

9. Provided the Jewel notice which had nearly seven million impressions and a click through rate of over 22%.

Issues with the Class Notice and Steps Being taking to Resolve Them

10. Two issues have arisen with the email notice. First, 5,767,111 of the email notices sent to class members were returned as undeliverable. Gilardi reports that it will perform "resends" that go out as a follow-up transmission for those emails that were reported to have been undelivered. Gilardi reports that these resends typically perform much better, because the ISPs see that their constituents opened the first round of delivered emails multiple times, clicked the links to the settlement website and will accept more messages for delivery.

11. Second, of the emails that were delivered, Class Counsel determined from speaking with class members that a large portion of class members with Gmail email address had the notice placed in their spam folder. The issue does not appear to have affected the notices sent to other email platforms, such as Yahoo!. Class Counsel immediately alerted Gilardi to the issue and spoke directly with Gilardi's email vendor regarding this issue on Friday. They learned that whether emails are placed in users' inboxes or spam folders is in control of the email platforms, not Gilardi's vendor. While the vendor was able to coordinate with Yahoo! to ensure that notice emails made it to users' inboxes, the vendor was unable to reach an appropriate person at Google to achieve the same outcome. Class Counsel are currently working to contact Google and attempt to resolve this issue without the Court's intervention.

12. Finally, as the Court is aware, Class Counsel filed a TRO in response to an advertising campaign launched by Levi & Korsinsky in the days leading up to the launch of the Court-approved notice to the class. Pursuant to the Court's order, the Parties' counsel have been in contact with Levi & Korsinsky, who have indicated that they will no longer be proceeding with

1 further advertising or in representing any class members that responded to the initial advertising.
2 The Parties believe a compromise on the notice to the approximately 3,000 impacted class
3 members will be reached and submitted to the Court shortly.

4 The Parties appreciate the Court's close attention to the Class notice in this case and are of
5 course prepared to provide any additional information now or in their future Joint Reports, should
6 the Court require it.

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8 DATED: September 30, 2020

s/ Alexander G. Tievsky
Class Counsel

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SIGNATURE ATTESTATION

I hereby attest that the content of this document is acceptable to all persons whose signatures are indicated by a conformed signature (/s/) within this e-filed document.

s/ Alexander G. Tievsky